

Six Questions on Use Designation (from states to EPA)

1. **Human caused conditions** (§131.10(g)(3)) -- Look at examples of where factor 3 has been attempted or used such as Alabama, Idaho, or Colorado and how these help establish boundaries of where this factor is appropriate. The goal would be to identify situations where "cannot be remedied" is applicable and what would constitute demonstration, and how factor 3 differs from situations where factor 6 (economic and social impact) would be used.
2. **Existing uses** -- How do we interpret the phrase "uses actually attained" in the §131.3 definition of existing use? Is a use existing when the water quality is present to support the use, when the people are already exercising the use (e.g., swimming), both, or either?
3. **Sufficiency of data** -- The goal of this discussion would be to scope out what is considered sufficient data to support a UAA, recognizing that we can't get too specific (e.g., certain number of samples) and it may depend on which factor is being addressed. Is our policy that if the data do not clearly demonstrate the use cannot be attained that we err on the side of caution and default to the position that the use is attainable? What is the process for coordinating with UAA developers for agreeing on data sufficiency?
4. **Mechanisms for short-term goals other than use removal** -- When is a use change the appropriate tool vs. a variance, site-specific criteria, compliance schedule, temporary standards, partial attainment acknowledgment, or phased TMDL? What is the level of demonstration needed to justify temporary standards?
5. **Substantial and widespread economic and social impact** (§131.10 (g)(6)) -- The goal of this discussion would be to clarify in which situations factor 6 is appropriate and the type of documentation needed.
6. **Attainability** -- How do we define attainment vs. impairment? The definition of attainment in §131.10(d) is the only link between standards and nonpoint sources. Should we be telling states to consider BMPs for nonpoint sources as part of their attainability analysis? How do we interpret "cost-effective and reasonable"?